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June 25, 1999

Magalie Roman Salas  
Secretary  
Federal Communications Commission  
445 Twelfth Street, S.W.  
Washington, D.C. 20054

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JUN 25 1999

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

**Re: Cellular Telecommunications Industry Association's  
Petition for Forbearance From Commercial Mobile Radio  
Services Number Portability Obligations,  
WT Docket No. 98-229 and  
Telephone Number Portability, CC Docket No. 95-116**

Dear Ms. Salas:

Enclosed for filing in the referenced proceedings on behalf of the Telecommunications Resellers Association are an original and four copies of the Opposition to GTE Service Corporation's Petition for Reconsideration of the Commission's February 9, 1999, Memorandum Opinion and Order. Please file stamp and return one copy of the Opposition (additional copy provided).

Please contact me if you have any questions.

Respectfully submitted,

*Linda L. Oliver*

Linda L. Oliver  
Counsel for Telecommunications  
Resellers Association

*by JFP*

Enclosures

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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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JUN 25 1999

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of	)	
	)	
Cellular Telecommunications Industry	)	
Association's Petition for Forbearance	)	WT Docket No. 98-229
From Commercial Mobile Radio Services	)	
Number Portability Obligations	)	
	)	
and	)	
	)	
Telephone Number Portability	)	CC Docket No. 95-116

**OPPOSITION TO  
PETITION FOR RECONSIDERATION**

The Telecommunications Resellers Association ("TRA") hereby files its opposition to the petition for reconsideration filed by GTE Service Corporation and its telephone and wireless companies ("GTE"), of the Commission's February 9, 1999, Memorandum Opinion and Order in the referenced dockets ("the Forbearance Order"). 1/

GTE asks the Commission on reconsideration of its order delaying the implementation deadline for wireless number portability to abandon its requirement that wireless carriers implement number portability. The Commission

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1/ Cellular Telecommunications Industry Association's Petition for Forbearance from Commercial Mobile Radio Services Number Portability Obligations, WT Docket No. 98-229, and Telephone Number Portability, CC Docket No. 95-116, FCC 99-19 (released Feb. 9, 1999), 64 Fed. Reg. 22562 (April 27, 1999) ("Forbearance Order").

must reject GTE's plea to be allowed to deny consumers and competition the benefits of number portability. For the reasons given in TRA's and MCI WorldCom's own petitions for reconsideration, wireless number portability is essential to achieving the Commission's goals of promoting consumer choice and convenience, encouraging the development of robust competition for wireless and other telecommunications services, and maximizing the efficient use of the nation's numbering resources. 2/

Far from justifying GTE's request for elimination of the number portability requirement, the record in this case shows that the Commission should not even have delayed the deadline for implementing this important pro-consumer and pro-competitive step -- one that has already proven to have been essential to competition and consumer choice in the local wireline and 800 markets. The Commission should deny GTE's petition and grant the petitions of TRA and MCI WorldCom.

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2/ See Petition for Reconsideration of the Telecommunications Resellers Association, filed May 27, 1999; Petition for Reconsideration of MCI WorldCom, filed May 27, 1999. The Pennsylvania Public Utility Commission also asked the Commission to reconsider its decision to exempt wireless carriers from local number portability implementation. Petition for Reconsideration and/or Clarification of the Pennsylvania Public Utility Commission, May 26, 1999.

**I. GTE'S PETITION BOOTSTRAPS THE COMMISSION'S FINDINGS REGARDING DELAY TO JUSTIFY COMPLETE ABANDONMENT OF THE NUMBER PORTABILITY OBLIGATION.**

Rather than demonstrate that there is a record to justify overturning the Commission's original decision to order wireless as well as wireline carriers to implement number portability, GTE relies in its reconsideration petition on the Commission's findings supporting *delay* of that requirement as a basis for *eliminating* that requirement altogether. 3/

An examination of the Commission's Forbearance Order shows, however, that the Commission's findings were carefully limited to factors that would support a *temporary delay* in the deadline for implementing wireless number portability. 4/ Those findings in no way support a conclusion that wireless number portability is no longer in the public interest or required for the protection of consumers and the promotion of a competitive market. On the contrary, the Commission made it clear in the Forbearance Order that the benefits of wireless

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3/ See, e.g., GTE Petition at 10, 18-23.

4/ The Commission stated, for example, that "giving carriers *more time* to implement number portability" would not lead to unjust or unreasonable charges; that "*in the near term*, LNP does not appear to be critical to ensuring that this growth in competition continues." Forbearance Order at ¶ 19. See also id. at ¶ 22 ("*limited* forbearance" will not harm consumers); ¶ 25 ("the wireless industry needs *additional time*"); ¶ 28 ("*some additional time* to implement LNP should be afforded on technical grounds") (emphasis added).

number portability still dictated that the requirement was necessary to protect consumers, to conserve numbering resources, and to promote competition.

The Commission emphasized, for example, that “we continue to view wireless LNP as providing important benefits to wireless consumers.”<sup>5/</sup> The Commission also concluded that

the competitive reasons that led us to mandate wireless number portability in the *First Report and Order* remain fundamentally valid: we sought to increase competition both within the CMRS marketplace and with wireline carriers, and found that this competition would provide incentives for all carriers to provide innovative service offerings, higher quality services and lower prices. We remain committed to the basic regulatory approach outlined in prior orders in this proceeding. <sup>6/</sup>

GTE makes another fundamental error in its petition. It ignores the consumer and competitive justifications the Commission relied upon in applying number portability obligations to wireless carriers in its 1996 Number Portability Order.<sup>7/</sup> These considerations have not changed -- if anything, they are stronger today than they were in 1996.

In ordering wireless carriers to implement wireless number

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<sup>5/</sup> Forbearance Order at ¶ 23. As TRA pointed out in its own petition for reconsideration, the Commission’s findings were not adequate even to support delay, much less to support elimination of the number portability requirement. See TRA Petition at 7-16.

<sup>6/</sup> Forbearance Order at ¶ 40.

<sup>7/</sup> Telephone Number Portability, First Report and Order and Second Notice of Proposed Rulemaking, CC Docket No. 95-116, 11 FCC Rcd 8352 (1996) (“Number Portability Order”), recon., 13 FCC Rcd 21204 (1998), petition for review pending.

portability, the Commission concluded, for example, that:

- “Service provider portability between cellular, broadband PCS, and covered SMR providers is important because customers of those carriers, like customers of wireline providers, *cannot now change carriers without also changing their telephone numbers.*” 8/
- “[T]he inability of customers to keep their telephone numbers when switching carriers also *hinders the successful entrance of new service providers* into the cellular, broadband PCS, and SMR markets.” 9/
- “[S]ervice provider portability will *promote competition* between existing cellular carries, as well as facilitate the viable entry of new providers of innovative service offerings . . . .” 10/
- “Removing barriers [to competition], such as the requirement of changing telephone numbers when changing providers, *will likely stimulate the development of new services and technologies, and create incentives for carriers to lower prices and costs.*” 11/
- “[N]umber portability *will promote competition between CMRS and wireline service providers* as CMRS providers offer comparable local exchange and fixed commercial mobile radio services.” 12/

In the Forbearance Order, the Commission did not change its conclusion that these factors warranted the implementation of wireless number portability. 13/ GTE has not demonstrated what changed circumstances might

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8/     Number Portability Order at ¶ 157 (emphasis added).

9/     Id. (emphasis added).

10/   Id. (emphasis added).

11/   Id. at ¶ 158 (emphasis added).

12/   Id. at ¶ 160 (emphasis added).

13/   Forbearance Order at ¶ 40.

warrant the Commission revisiting its previous conclusion that wireless number portability was required in the public interest.

GTE's petition also ignores the fact that in the future, wireless number portability will be even more important than in the past, given the increasing penetration of wireless phones in this country, the potential substitutability of wireless for wireline telephone service, and the potential implementation of calling party pays technology. As the Commission itself observed in the Forbearance Order:

[A]s wireless service rates continue their downward trend and the use of wireless service increases, there is a greater likelihood that customers will view their wireless phones as a potential substitute for their wireline phones. 14/

In the Forbearance Order, the Commission also recognized that the availability of a "calling party pays" option would increase consumers' desire to give out their wireless numbers on the same basis that they would give out their wireline numbers, thus making wireless number portability "an increasingly important factor in consumer choice." 15/ Indeed, the Commission recently adopted a

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14/ Id. at ¶ 23. The Commission also recently opened a proceeding to promote the development of competitive networks that could provide alternatives -- including those based on wireless technologies -- to the wireline local exchange carriers. "FCC Initiates Proceeding to Promote Development of Competitive Networks," FCC News Release, June 10, 1999, WT Docket No. 99-xx, CC Docket No. 96-98.

15/ Forbearance Order at ¶ 23.

Declaratory Ruling and Notice of Proposed Rulemaking in which it proposed the removal of obstacles to the implementation of calling party pays. 16/ Thus, the validity of the Commission's original reasons for ordering wireless number portability implementation in 1996 -- which it endorsed again in the Forbearance Order -- are only going to be stronger in the future.

In sum, there is no basis in the record in this proceeding or in the FCC's own orders to justify elimination of the requirement that CMRS providers implement wireless number portability.

## **II. GTE'S NUMBER CONSERVATION-BASED ATTACK ON THE COMMISSION'S ORDER IS INCORRECT.**

GTE also points to the Commission's discussion of number conservation issues as a basis for seeking reconsideration. In essence, GTE argues that because the Commission did not rely on number conservation considerations when it ordered wireless number portability in 1996, it is without authority to consider such factors now in connection with a forbearance analysis. 17/

GTE clearly is in error on this point. First, the Commission did take number conservation considerations into account when it ordered number portability implementation in 1996. 18/ Second, not only is the FCC entitled to take

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16/ "FCC Adopts Declaratory Ruling and Notice of Proposed Rulemaking on Calling Party Pays," FCC News Release, June 10, 1999, WT Report No. 99-xx, Docket No. 99-207.

17/ GTE Petition at 13-16.

18/ Forbearance Order, citing Number Portability Order at ¶ 153 ("Implementation of long-term service provider portability by CMRS carriers will



into consideration present circumstances when evaluating a forbearance request, it is *required* to do so. The Commission examined the number conservation implications of delaying the implementation of wireless number portability because the Act required it to determine whether forbearance would be consistent with the public interest. The Commission correctly concluded that if delay of WNP implementation would harm number conservation efforts, that factor must be taken into account in evaluating the third prong of the forbearance analysis (the public interest test). 19/

GTE also contends that the FCC incorrectly concluded that implementation of wireless number portability could interfere with number conservation measures, including the ability of wireless carriers to participate in number pooling. 20/ The FCC's concerns about number conservation were legitimate, and were supported by a number of state commissions with similar concerns. 21/

In any case, it is unnecessary to decide whether GTE is correct in its assertion that implementation of wireless number portability through the industry's MIN/MDN separation methodology would not assist in accomplishing

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have an impact on the efficient use and uniform administration of the numbering resource.”)

19/ Number conservation issues would also be relevant to the first two prongs of the Section 10 forbearance analysis.

20/ GTE Petition at 16-18. See Forbearance Order at ¶¶ 43-44, 48.

21/ Forbearance Order at ¶ 43 n.120.

number pooling. GTE has mischaracterized the conclusions reached in the Forbearance Order. GTE contends that the Commission *relied* on the number pooling issue as a basis for refusing to eliminate the number portability requirement. 22/ But contrary to GTE's suggestion, the Commission concluded only that the delay in WNP implementation that it otherwise found justified was consistent for the time being with number conservation efforts. 23/

The Commission's reference to number pooling also was far less definitive than GTE suggests: the FCC simply reserved its "ability to require wireless participation in pooling at an earlier date [than the WNP implementation date], if doing so were necessary to address specific number exhaust problems." 24/ It did not conclude that wireless number portability was a prerequisite to implementation of thousands-block number pooling, as GTE claims. 25/

GTE makes a final error in its analysis. It ignores the fact that the alternative method for implementing wireless number portability that TRA proposed, the "LRN-Relay" method, is based on the same LRN methodology that is required to implement number pooling. 26/ If the industry were to implement

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22/ GTE Petition at 17-18.

23/ Forbearance Order at ¶¶ 43-48.

24/ Id. at ¶ 48.

25/ GTE Petition at 17.

26/ See "Wireless Number Portability: The Case for LRN-Relay," filed by TRA in CC Docket No. 95-116, Nov. 24, 1998 ("LRN-Relay Report").

number portability using that methodology, it would have also taken the steps necessary to make participation in number pooling possible. This is one more reason why the FCC should have considered the merits of the LRN-Relay alternative before it deferred the wireless number portability implementation date (as TRA pointed out in its Petition for Reconsideration). 27/

## CONCLUSION

For the reasons given, the Commission should deny GTE's petition for reconsideration and instead grant TRA's and MCI WorldCom's petitions, thereby reinstating the March 31, 2000, deadline for implementation of wireless number portability.

Respectfully submitted,

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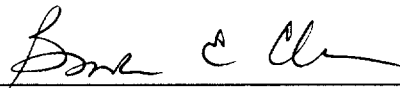
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27/ TRA Petition at 6-7, 14-16.

## CERTIFICATE OF SERVICE

I, Barbara E. Clocker, hereby certify that a copy of the foregoing  
Opposition of the Telecommunications Resellers Association to GTE Service  
Corporation's Petition for Reconsideration filed in WT Docket 95-116, was served by  
hand delivered (where indicated) or by first class mail upon the following:



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